IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

Crl.MC.No. 2059 of 2007()

CC.362/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, NILAMBUR

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PETITIONER: ACCUSED

BALATHINAMKUZHI SHIBU,
S/O. PURUSHOTHAMAN, BALATHINAMKUZHI HOUSE,
RESIDING AT VELLIMUTTAM, KURUMPALANGOD AMSOM,
NILAMBUR.

BY ADV. SRI.ROJO J.THURUTHIPARA

RESPONDENTS: DEFACTO COMPLAINANT

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1. MANJU, D/O. MURALEEDHARAN,
CHRIVUPARAMBIL HOUSE, EDAKKARA P.O.,
UPPADA, NILAMBUR.

2. THE SUB INSPECTOR OF POLICE,
EDAKKARA POLICE STATION, NILAMBUR.

3. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR
SRI.BABY THOMAS

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

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Crl.M.C.No.2059 of 2007

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Dated this the 23rd day of July 2007

O R D E R

The petitioner faces indictment in a prosecution for the offence punishable, inter alia, under Section 498A I.P.C. Proceedings were initiated on the basis of the complaint of the defacto complainant /1st respondent herein. Investigation is complete. Cognizance has been taken on the basis of the final report submitted by the Police. The case is pending before the Judicial First Class Magistrate Court, Nilambur as C.C.No.362/2006. The petitioner and the 1st respondent have now come before this court through counsel. The counsel submit that the parties have settled their disputes and the 1st respondent has compounded the offence allegedly committed by the petitioner/ accused. They pray that the composition may be accepted and proceedings against the petitioner may be dropped. Marital tie has now been dissolved. Parties are residing separately. In these circumstances, the unnecessary continuance of the criminal prosecution against the petitioners is an avoidable irritant in their relationship.

2. The 1st respondent has filed an affidavit to confirm that the disputes have been settled and offence has been compounded. I am in these circumstances, satisfied that the parties have settled their disputes and defacto complainant / 1st respondent has compounded the offence allegedly committed by the petitioner. If legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be directed.

3. However, the offence under Section 498A I.P.C is not compoundable. The learned counsel, in these circumstances, rightly rely on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that notwithstanding the provisions of Section 320 Cr.P.C, the powers under Section 482 Cr.P.C can be invoked to bring about premature termination of such prosecution.

4. I am satisfied, in the facts and circumstances of the case, that this is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked to bring to

premature termination the proceedings against the petitioner initiated by the first respondent.

5. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.362/2006 pending before the Judicial First Class Magistrate Court, Nilambur, against the petitioner herein is hereby quashed.

(R.BASANT, JUDGE)

/TRUE COPY/

P.A.TO JUDGE